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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/585,394 | 12/28/2006 | **Christian Prentner** | F5152-00001 | 5935 |

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| EXAMINER | |
|---|---|
| ING, MATTHEW W | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3637 | |

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|---|---|
| 01/11/2011 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/585,394 | PRENTNER ET AL. | |
| | Examiner | Art Unit | |
| | MATTHEW W. ING | 3637 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *20 December 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1 and 5-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 5-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/10 has been entered.

### Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 5-11, & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) in view of Domenig (5,169,237). Sekerich teaches the structure substantially as claimed, including a control roller (18) having a soft body (50) which engages both carcass (16) & pull-out (12) rails. The only difference between Sekerich and the invention as claimed is that Sekerich fail(s) to teach a control roller having hard & soft bodies which each engage said rails. Domenig, however, teaches a roller having hard & soft bodies which each engage a rail (col. 3, lines 6-9). It would have been obvious to one of ordinary skill in the art to substitute a roller, as taught by Domenig, for that of Sekerich, in order to increase the service life of said roller (col. 2, lines 5-30 of Domenig).

4. Regarding claim 1, Sekerich teaches a carcass rail (16) for attachment to a carcass, a pull-out rail (12) for attachment to the drawer, a central rail (14) arranged between the carcass rail and the pull-out rail, wherein the central rail is displaceable relative to the carcass rail and relative to

the pull-out rail, during pulling-out and pushing-in operations of the drawer; and control roller (18) mounted rotatably about an axis on the central rail and in engagement with the carcass rail and with the pull-out rail; wherein the control roller mounted rotatably on the central rail serves exclusively for synchronizing a position and movement of the central rail with the pulling-out and pushing-in operations of the drawer. See col. 1 lines 6-8 & 38-39 (describing the roller of Sekerich as a "progressive roller" for "caus[ing] progressive movement of the rails"). Since the carcass rail (16) and pull-out rail (12) are mounted to cabinet and drawer, respectively, it follows that the load imposed by said drawer is carried by said carcass rail via said central & pull-out rails; and that, therefore, said control roller does not serve as a load-bearing device. This is further suggested by the fact that the control roller of Sekerich is easily replaceable without disassembly of said rails or removal of said drawer (col. 5, lines 10-23). Additionally, Domenig teaches a roller (1) comprising a bearing part including a hard body (7) and a soft body (8), wherein the soft body at least in part projects in a radial direction relative to the hard body (Fig. 1), and the soft body extends over an axial extent less than an axial extent over which the hard body engages with the carcass rail and with the pull-out rail (Fig. 1).

5. Regarding claim 1, Domenig teaches a soft body (8) arranged in a region (i.e., portion of 1 to the right of line A in Fig. 1 Annotated) of an axial end side (B) of the roller (1). The examiner also notes that even assuming, arguendo, that the soft body of Domenig cannot be said to be arranged in the region of an axial end side of the roller, mere rearrangement of the essential working parts of a device has been held to involve only routine skill in the art (see MPEP 2144.04(VI)(C)). Since the instant application fails to recite any specific utility associated with the soft body's location, it therefore would have been obvious to one of ordinary skill in the art to

locate the soft body of Sekerich as modified at an axial end side of the roller thereof, in order to provide cushioning, support, & noise-reduction for that portion of the roller.

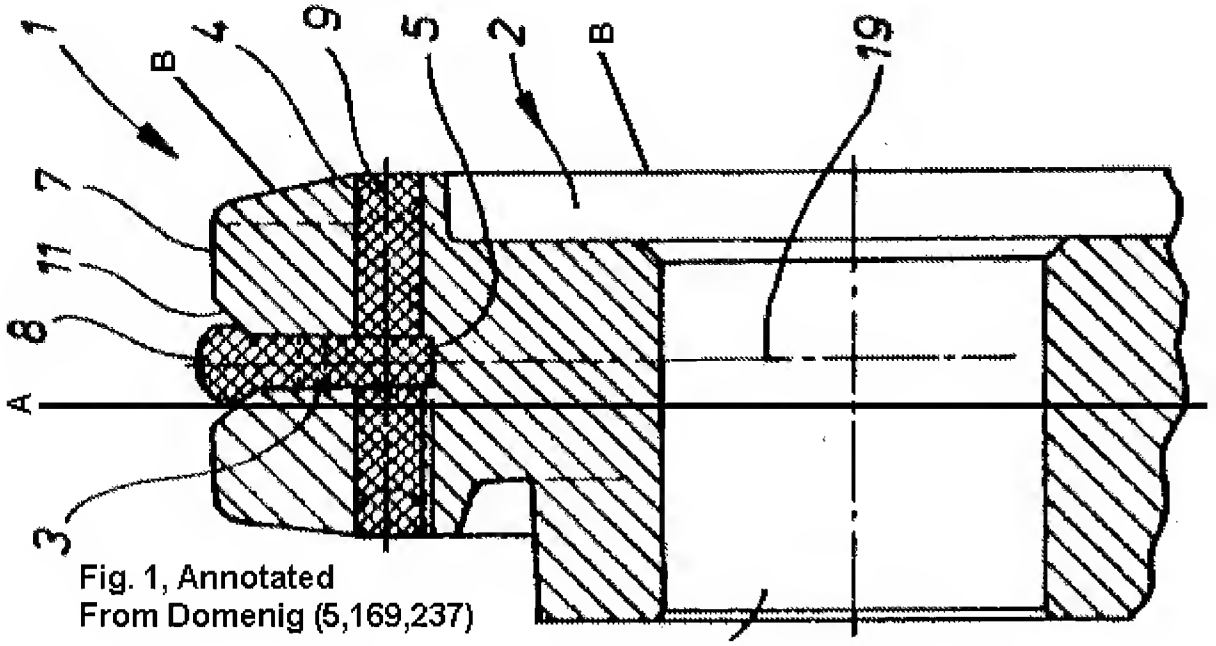


Fig. 1, Annotated From Domenig (5,169,237)

6. Regarding claim 5, Domenig teaches a roller (1) comprising a two-component construction. See Fig. 1.

7. Regarding claim 6, Domenig teaches hard (7) & soft (8) bodies comprising two separate components which are assembled before mounting of the roller.

8. Regarding claims 7-8, Domenig teaches a soft body (8) arranged & fixed between a shoulder of the hard body (portion of 7 to the left of 19 in Fig. 1) and a bearing plate or washer (portion of 7 to the right of 19 in Fig. 1) of the roller.

9. Regarding claims 9-10, although Sekerich fails to clearly teach a spindle having a non-circular cross-section whose major axis extends in a pull-out direction, since applicant has not traversed the examiner's taking of official notice, per MPEP 2144.03(C), the practice of changing the shape of a spindle is therefore viewed as being admitted prior art. With regard to the

orientation of said spindle, it is noted that mere rearrangement of the essential working parts of a device has been held to involve only routine skill in the art. As such, it therefore would have been an obvious design consideration to one of ordinary skill in the art to modify the spindle of Sekerich, by giving said spindle a non-circular cross-section whose larger diameter was oriented in a pull-out direction of the pull-out guide, depending on the desired needs of the person constructing the drawer slide (e.g., intended use of the drawer slide, aesthetic considerations, compactness, ease of manufacture, etc.), thereby providing the structure substantially as claimed.

10. Regarding claims 11 & 13, Sekerich teaches a control roller (18) mounted on a spindle (58) and the spindle is mounted on a holding device (56) snap-connected (via 64) to the central rail.

11. Claims 12 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) & Domenig (5,169,237) as applied to claims 1 & 10, in view of Crescenzi (4,120,071). Sekerich & Domenig teach the structure substantially as claimed, including a control roller (18) mounted on a spindle (58). The only difference between Sekerich & Domenig and the invention as claimed is that Sekerich & Domenig fail to teach a control roller snapped onto a bearing spindle. Crescenzi, however, teaches mounting a roller (13) to a spindle (24) via a snap-connection therebetween. It would have been obvious to one of ordinary skill in the art to substitute a connecting means, as taught by Crescenzi, for that of Sekerich as modified, in order to prevent extraneous movement by said roller while attached to said spindle.

**Response to Arguments**

12. Applicant's arguments filed 12/20/10 have been fully considered but they are not persuasive.

13. In response to applicant's arguments regarding the limitations of former claim 4, as noted in the prior art rejection above, said limitations are viewed as being taught by the structure of Sekerich as modified by Domenig; and that even assuming, arguendo, that they were not, it nevertheless would have been obvious to one of ordinary skill in the art to relocate the soft body of the control roller thereof to a location at an axial end side of said control roller, in order to provide cushioning, support, & noise-reduction for that portion of the roller.

14. As for applicant's assertion that Domenig does not teach a soft body "protruding radially and extending over a limited axial extent," the examiner notes that the soft body (8) of Domenig both protrudes radially (by distance 10 in Fig. 3), and extends over a limited axial extent (i.e., the width of groove 3).

15. In response to applicant's arguments regarding the practice of changing a spindle's shape, it remains unclear whether or not applicant is traversing the examiner's finding that this practice is well-known in the art (as opposed to the rejection based upon this admitted prior art). Even assuming, arguendo, that such a traversal had occurred, it would not be found persuasive, since, as previously noted, the references of Sharp, Grebonval, & McIntosh clearly illustrate that the practice of altering spindle cross-sections is well-known in the art. In addition, since said references relate to spindles for rotatable objects, they are therefore viewed as being both within applicant's field of endeavor & reasonably pertinent to the problem with which applicant was concerned. Moreover, the aforementioned admitted prior art is viewed as being applicable to spindles generally, including those "carrying control rollers between carcass and pull out rails . . . ." (Remarks, p. 6).

16. As for applicant's argument regarding the orientation of the spindle, first, neither claims 9-10 nor applicant's Remarks cite any specific utility associated with said orientation; hence, orienting the non-circular spindle in Sekerich as modified such that its long axis paralleled the pull-out direction is viewed as being an obvious matter of design choice to one of ordinary skill in the art. Second, even though applicant does assert, in pp. 3-4 of the specification, that arranging a non-circular spindle in the claimed orientation "results in a permanently quiet bearing", he fails to explain why this is so. Even assuming, arguendo, that such an outcome is indeed the result of the aforementioned spindle orientation, it nevertheless would have been obvious to one of ordinary skill in the art to try & obtain such a result, since the problem of noise during movement has long been known in the art of drawer slides (see, e.g., col. 3, lines 4-5 of Domenig (5,169,237) (citing as an advantage that a drawer roller "operates practically without noise")) since mere rearranging of the essential working parts of a device has been held to involve only routine skill, and since person of ordinary skill in the art would have been able to choose among the limited number of available orientations for said spindle, with a reasonable expectation that a spindle having the claimed orientation would have been obtained.

17. As for applicant's argument that Domenig does not teach a "control roller," it is noted that Domenig is merely cited for teaching a roller (1) having a hard (7) & soft (8) body; and that if said roller were substituted for Item 18 of Sekerich, said roller could thereafter be deemed a "control roller." The fact that Domenig's roller is load-bearing does not forestall such a roller from being used in a controlling, non-load-bearing capacity (e.g., as a replacement for 18 of Sekerich); nor does it restrict usage of Domenig's teachings to load-bearing rollers. Rather, the teachings of Domenig are viewed as being applicable to any situation in which increased service

life is necessary. Even if 18 of Sekerich is a non-load-bearing control roller, it remains subject to wear & tear as a result of its contact with the carcass & pull-out rails thereof; hence, the teachings of Domenig would appear to be applicable to such a roller. The obvious result of applying such teachings, as noted above, would be the substitution of the roller of Domenig for Item 18 of Sekerich, for the purpose of providing a roller with increased service life.

**Conclusion**

18. This is a Request for Continued Examination of the instant application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/
Primary Examiner, Art Unit 3637

MWI
1/3/11